Exhibit R

	Page 1		Page	3
	IN THE UNITED STATES DISTRICT COURT	1.	INDEX TO EXAMINATION	
	FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA	2	PAGE	
	CHARLESTON DIVISION	3	PALLA MALLON ON DALLA CON DOMESTIC	4
		4	EXAMINATION BY MR. SIMON 57	
	IN RE: DIGITEK PRODUCT LIABILITY LITIGATION	5	CERTIFICATE 68	
	WILLIAM E. LANGE, ET AL.,)	6		
	PLAINTIFFS,)	7		
1	V.) MDL NO. 1968	8	INDEX TO EXHIBITS	
	ACTAVIS TOTOWA, LLC, ET AL.,)	9	NONE	
	DEFENDANTS.)	10		
		11		
		12		
		13 14		
		15		
	DEPOSITION OF WILLIAM E. LANGE, PRODUCED,	16		
	SWORN AND EXAMINED ON THE 6TH DAY OF OCTOBER,	17		- !
	2009, BETWEEN THE HOURS OF 9:00 A.M. AND 10:20 A.M., AT THE OFFICES OF THOMPSON, MILLER &	18		
	SIMPSON, 600 WEST MAIN STREET, LOUISVILLE.	19		
	JEFFERSON COUNTY, KENTUCKY, BEFORE LISA MIGLIORE,	20		
	CERTIFIED COURT REPORTER-KENTUCKY AND NOTARY	2.1		
	PUBLIC WITHIN AND FOR THE STATE OF KENTUCKY.	22		
		23 24		
		2 4 25		
	Page 2	2.5	Page	4
1	*** *** ***	1	WILLIAM E. LANGE, AFTER BEING FIRST DULY	-
2	APPEARANCES	2	SWORN, WAS EXAMINED AND DEPOSED AS FOLLOW	18.
3 4	FOR THE PLAINTIFFS:	3	THE DIA COLD TO TO DESCRIPTION OF THE DESCRIPTION O	U.
5	CARL FRANKOVITCH, ESQ. MEGIIAN JOHNSON CARTER, ESQ.	4	EXAMINATION	
6	MOTLEY RICE 28 BRIDGESIDE BOULEVARD	5		
	MT. PLEASANT, SOUTH CAROLINA 29464	6	BY MS. DOWNIE;	
7 8	FOR THE DEFENDANTS:	7	Q. Mr. Lange, my name is Ericka Downie.	
9	ERICKA DOWNIE, ESQ. SHOOK, HARDY & BACON	8	I'm going to be taking your deposition today in	
10	2555 GRAND BOULEVARD KANSAS CITY, MISSOURI 64108	9	connection with a class action lawsuit filed on your	
	APPEARING ON BEHALF OF MYLAN PHARMACEUTICALS INC.,	10 11	behalf. I'm going to be asking you a series of	
11	MYLAN BERTEK PHARMACEUTICALS INC., AND UDL LABORATORIES	12	questions, and the court reporter is going to take	
12	JOHN A. SIMON, ESQ.	13	down your responses. It's very important that you	
13	TUCKER, ELLIS & WEST 1150 HUNTINGTON BOULEVARD	14	give verbal answers rather than shaking or nodding	ı
	925 EUCLID AVENUE	15	your head, and also if we try not to talk at the	
	CLEVELAND, OHIO 44115 APPEARING ON BEHALF OF ACTAVIS TOTOWA LLC, ACTAVIS	16	same time, we'll make our court reporter's job a	
	INC., AND ACTAVIS ELIZABETH LLC	17	whole lot easier.	.
	JAMES S. ARNOLD, ESQ. ALLEN GUTHRIE & THOMAS	18	If you need a break at any time, let me know	ļ
	P.O. BOX 3394	19	and we'll be happy to accommodate.	Į
	CHARLESTOWN, WEST VIRGINIA 25333 APPEARING ON BEHALF OF THE WEST VIRGINIA	20	And if you don't understand a question that I	
	DEFENDANTS	21 22	ask, let me know. Otherwise, I'm going to assume that you have understood the questions as I have	
21		23	asked them. Okay?	
0.0			•	I
22 23 24		24	A. Sure.	I

1 (Pages 1 to 4)

	Page 5		Page 7
1	be able to testify truthfully and completely in	1	A. No.
2	response to my questions?	2	Q. Okay. And your four children, their
3	A. No.	3	names are
4	Q. Are you on any medications that affect	4	The second secon
5	your memory?	5	A. Yes.
6	A. No.	6	Q. Can you tell us a little bit about your
7	Q. Okay. What is your name and address,	7	education background, sir?
8	sir?	8	A. Well, I graduated from Flaget High
9	A. My name is William E. Lange, L-A-N-G-E,	9	School here in Louisville.
10	and my address is	10	Q. Okay.
11		11	A. And I went to the University of
12		12	Louisville on a football scholarship one year, and
1.3	Q. And your birth date and Social Security	13	they beat me to death, so I didn't return.
14	number?	14	Q. Okay.
15	A. Birthday is .	15	A. And I I've I've been to several
16	Q. Uh-huh.	16	beer seminars in Milwaukee, and that's about the
17	A. And Social Security .	17	extent of it.
18	Q. Have you ever had your deposition taken	18	Q. Okay. And the beer seminars, what are
19	before like what we're doing today?	19	those?
20	A. No, ma'am.	20	 A. Miller sent you to Milwaukee for a
21	Q. Have you ever testified at a trial or a	21	three-day seminar concerning how beer is made, and
22	hearing of any nature?	22	Pabst did the same thing. I worked for a beer
23	A. I'm not sure. I was I was a deputy	23	distributor with multiple brands.
24	in a courtroom.	24	Q. Okay. All right. Well, why don't we
25	Q. Okay.	25	get to that.
	Page 6		Page 8
1	A. And I might have had to say something	1	Are you currently retired, sir?
2	here or there. I'm not sure.	2	A. Yes, ma'am.
3	Q. But nothing in connection with a	3	Q. And when did you retire?
4	claim	4	 A. Oh, eight and a half years ago, June
5	A. No.	5	of '01.
6	Q on your behalf or against you?	6	Q. June of '01.
7	A. No.	7	And where were you working at the time that you
8	Q. Have you ever had any previous lawsuits	8	retired?
9	other than the lawsuit in which you're involved in	9	A. Jefferson County Sheriff's Office.
10	today?	10	Q. And what was your position there?
11	A. No.	11	A. I was a bailiff. I was a deputy in the
12	Q. Now, you're married; is that correct,	12	courtroom.
13	sir?	13	Q. And how long did you hold that position?
14	A. Yes, ma'am.	14	A. Well, I started out in in auto
15	Q. And your wife's name is	15	inspection.
16	A. Yes.	16	Q. Okay.
17	Q. And were you married on	17	A. And I was there about three years, and I
18	A. Yes, ma'am.	18	spent my last four and a half years in the
19	Q. And you have four children?	19	courtroom,
20	A. Yes, ma'am.	20	Q. Okay. So you were there approximately
	Q. Do you have any other children other	21	seven and a half years total?
21			A Norrow and a half warm
22	than that?	22	A. Seven and a half years.
22 23	than that? A. No.	23	Q. What did you do prior to that?
22	than that?		

2 (Pages 5 to 8)

Page 9	Page 11
1 Q. Okay. 1 A. No.	
2 A. But when I moved back from Florida to 2 Q. Was anybody with you while yo	ou were
3 Louisville, I sold for wholesalers: cigarettes, 3 filling that out?	
4 tobacco, candy, paper products. 4 A. No, ma'am.	
5 Q. Okay. Approximately how long would you 5 Q. Your wife or anybody of that na	ature?
6 say you worked for beer distributors or similar type 6 A. No.	
7 positions? 7 Q. Did you consult any information	n,
8 A. 20 22 years. 8 documents, records, in preparing the ans	
9 Q. Okay. Now, when did you move back from 9 that document?	
10 Florida to Louisville? 10 A. No.	
11 A. In November of 1985. 11 Q. Okay. Did you look at any pres	scription
12 Q. And where did you live when you lived in 12 records, for example, or medical records	
13 Florida? 13 A. No.	·
14 A. Well, I went down there originally to 14 Q. To your knowledge, did you fill	that out
15 Tallahassee. 15 as truthfully and accurately as you could	
16 Q. Uh-huh. 16 A. Yes.	•
17 A. And then after 11 months, we moved to 17 Q. If you want to take a moment, or	r if you
18 St. Petersburg. 18 know but take a moment to look throu	
19 Q. Okay. How long did you live in Florida? 19 there anything in that document that you	
20 A. A total of three and a half years. 20 needs to be changed or updated?	Delieve
21 Q. Okay. Other than Louisville and 21 MR. FRANKOVITCH: Go thro	ugh agab
22 Florida, have you lived anywhere else? 22 A. The atrial fibrillation at least on	
23 A. No. 23 month	ce a
	Iban
Page 10	Page 12
1 other reason for your retirement? 1 haven't been in a-fib since May.	
2 A. It was based on my age. 2 Q. Well, that's good news.	
3 Q. Have you ever served in the military? 3 A. Yes.	
4 A. Yes, ma'am. 4 Q. And what is that new medication?	
5 Q. When did you serve in the military? 5 A. Amerone (phonetic), Pacerone, Ameron	ne or
6 A. United States Army Reserve, I went 6 (inaudible).	
7 active duty in 1958 for back then, it was six 7 (INQUIRY BY THE COURT REPORT)	ER.)
8 months active duty, and then you came back home and 8 A. It's called the generic Pacerone,	,
9 you were in the Reserves for seven years. 9 P-A-C-E-R-O-N-E, I believe.	
10 Q. Okay. Were you discharged from the 10 Q. Okay. So the a-fib that you were	
11 service? 11 experiencing on a monthly basis has stopped; is	that
12 A. Honorably.	
13 Q. Okay. I'm going to show you a document 13 A. Since I switched cardiologists, yes.	
14 and see if you recognize this. Bear with me one 14 (WITNESS CONFERRED WITH COUNTY)	NSEL OUTSID
15 moment. 15 OF THE HEARING OF THE REPORTER.)	
16 I'm showing you a plaintiff's fact sheet. Do 16 A. Okay. Yeah. Okay. The two heart	
17 you recall having seen this document before? 17 attacks	
18 A. Yes. 18 Q. Okay.	
19 Q. Okay. And there's handwriting on that 19 A I have, and talking to my doctor and	
20 document. Is that handwriting yours? 20 myself, I have decided that Digitek did not cause	e
21 A. Yes, ma'am.	-
22 Q. So did you fill that out yourself? 22 Q. Okay. So currently, just to clarify for	
23 A. Yes. 23 the record, the fact sheet indicates that the	
24 Q. And did anybody assist you in filling 24 injuries that you were claiming included two her	art
25 that out? 25 attacks that occurred, and the fact sheet indicates	
25 that out:	<u>, </u>

3 (Pages 9 to 12)

	Page 13		Page 15
1	that you linked those injuries or those heart	1	Q. When you say, "when all of this
2	attacks to your ingestion of Digitek,	2	happened," can you be more specific with me?
3	A. Without knowing any better.	3	A. When they they sent me a letter
4	Q. Okay. And if I'm understanding you	4	and Kroger did, and they said something about
5	correctly, you now understand that those heart	5	this product had been pulled off the market and I
6	attacks were not connected to your ingestion of	6	needed to come I went in I went to Kroger, and
7	Digitek?	7	there was a young girl at the counter. She didn't
8	A. Yes.	8	know anything about it. She asked the pharmacist.
9	MR. FRANKOVITCH: You want him to go	9	He didn't know about it. I went home.
10	through each item here or	10	Two or three days later, I get a phone call
11	MS. DOWNIE: Again, just if he wants to	11	from Kroger. They said, "Bring your pills in, and
12	take a moment just to look through it to make sure	12	we'll trade them out for you. Digitek has been
13	that there are no other changes, if he knows of	1.3	pulled off the market."
14	anything in particular.	14	So I took the pills in. They gave me some new
15	MR. FRANKOVITCH: Okay. To the extent	15	pills. I made an appointment with my cardiologist.
16	that his answers reflect a personal injury claim,	16	I went down to him and talked it over, and just that
17	he's withdrawn that. So	17	was about the extent of it.
1.8	MS. DOWNIE: Okay. So the personal	1.8	Q. Okay. The letter that you received from
19	injury claim in its entirety is being withdrawn?	19	Kroger, do you still have that in your possession?
20	MR. FRANKOVITCH: Correct.	20	A. No, I don't.
21	MS. DOWNIE: Okay.	21	Q. Do you have any records in your
22	(WITNESS CONFERRED WITH COUNSEL OUTSID	E22	possession regarding your prescription for Digitek?
23	OF THE HEARING OF THE REPORTER.)	23	A. No,
24	THE WITNESS: That's true (indicating).	24	Q. Do you have any bottles that the
25	BY MS. DOWNIE:	25	prescription came in for Digitek?
	Page 14		Page 16
1	Q. Okay.	1	A. No, Kroger took that back when they
2	A. Yes.	2	Q. Okay. How about any tablets? Do you
3	Q. So everything else is correct in the	3	have any actual tablets in your possession?
4	fact sheet other than withdrawing your personal	4	A. No.
5	injury claim; is that correct?	5	Q. And did you return all tablets that were
6	A. Everything except on the last page, my	6	in your possession at the time that you received the
7	cardiologist.	7	letter from Kroger to Kroger?
8	Q. Okay.	8	A. Yes.
9	A. I have a new cardiologist.	9	Q. Okay. Do you recall approximately how
10	Q. Who is your new cardiologist?	10	many tablets you had at that time?
11	A. I seen him twice. Dr	11	A. I don't know. Maybe I was getting a
12	Q. He left quite an impression.	12	90-day supply, maybe 35, 36.
13	A. Yeah, he stopped my a-fib. I should	13	Q. Okay. So you may have gone through
14	know his name. Stidam.	14	approximately two months' worth of Digitek at the
15	Q. Stidam?	1.5	time that you received the phone call?
16	A. S-T-I-D-A-M.	16	A. Yes.
17	Q. And your previous cardiologist, that was	1.7	Q. The new pills that you were given when
18	Dr. McMartin; is that correct?	18	you returned them
19	A. Yes, ma'am.	19	A. Yes.
20	Q. Okay. All right. Why is it that you	20	Q do you know what they were?
21	decided to file this lawsuit?	21	A. Yes,
22	A. Just everything that happened when	22	Q. What were they?
23	all this - when all this happened, the trips back	23	A. Digoxin,
24	and forth to the pharmacy, a trip to the doctor,	24	Q. And you indicated that shortly after
25	just everything that went along with it.	25	receiving the new pills, you then went to see your

	Page 17		Page 19
1	cardiologist; is that correct?	1	Q. Okay.
2	A. Uh-huh.	2	A. I didn't think it was any more than
3	Q. Was that Dr. McMartin?	3	that, and then something about it was about being
4	A. Yes, ma'am.	4	taken off the market.
5	Q. And what was your discussion with	5	Q. Okay. Now, in what manner do you
6	Dr. McMartin regarding the recall?	6	believe that you've been injured?
7	A. I had been dealing with Dr. McMartin for	7	A. I don't think I have any injury at all.
8	like 19 years.	8	Q. Okay. We talked about your personal
9	Q. Right.	9	injury.
1.0	A. And he and I were pretty close. I snuck	10	Do you have any economic injury that you
11	in. He was getting ready to retire, and he only saw	11	believe you've suffered?
12	patients on Monday.	12	A. Just just gasoline and going to and
13	Q. Uh-huh.	13	from and
14	A. And I got there about 8:30, and I said,	14	Q. So that would be the trip to the
15	"Look, I got this medicine change. What's this all	15	pharmacy to return your Digitek and receive your new
16	about?"	16	pills and then the trip to your cardiologist?
17	He said, "Well, your Digitek was generic. Now	17	A. A couple of trips to the pharmacy and
18	they've put you on the real thing or something, and	18	then to the cardiologist.
19	there's no big deal."	19	Q. How many trips to the pharmacy?
20	Q. Okay. Did you ask him any questions	20	A. Two.
21	regarding why the recall had occurred or anything of	21	Q. Two?
22	that nature?	22	A. I went one time, and they weren't sure
23	A. No.	23	and didn't know much about it, and then a couple of
24	Q. Did the did you have any other	24	days later, I went the second time.
25	discussions at the pharmacy about the recalled	25	Q. Okay. I may have misunderstood. My
	Page 18		Page 20
l			_
1	product?	1	apologies.
1 2	A. I think I think the pharmacist said	1 2	apologies. When you first got the letter, initially you
l	A. I think I think the pharmacist said that something about it was the pill had		apologies. When you first got the letter, initially you told me you called them.
2	A. I think I think the pharmacist said that something about it was the pill had too little or too much or they weren't sure.	2	apologies. When you first got the letter, initially you told me you called them. A. No.
2 3	A. I think I think the pharmacist said that something about it was the pill had too little or too much or they weren't sure. Q. Do you recall who it was that you spoke	2 3	apologies. When you first got the letter, initially you told me you called them. A. No. Q. No, you didn't call them?
2 3 4	A. I think I think the pharmacist said that something about it was the pill had too little or too much or they weren't sure.	2 3 4	apologies. When you first got the letter, initially you told me you called them. A. No. Q. No, you didn't call them? A. No, I went I went in to see them.
2 3 4 5	A. I think I think the pharmacist said that something about it was the pill had too little or too much or they weren't sure. Q. Do you recall who it was that you spoke to at Kroger? A. No.	2 3 4 5	apologies. When you first got the letter, initially you told me you called them. A. No. Q. No, you didn't call them?
2 3 4 5 6	A. I think I think the pharmacist said that something about it was the pill had too little or too much or they weren't sure. Q. Do you recall who it was that you spoke to at Kroger?	2 3 4 5 6	apologies. When you first got the letter, initially you told me you called them. A. No. Q. No, you didn't call them? A. No, I went I went in to see them.
2 3 4 5 6 7	A. I think I think the pharmacist said that something about it was the pill had too little or too much or they weren't sure. Q. Do you recall who it was that you spoke to at Kroger? A. No. Q. Is that the pharmacy that you've been well, let me back up.	2 3 4 5 6 7	apologies. When you first got the letter, initially you told me you called them. A. No. Q. No, you didn't call them? A. No, I went I went in to see them. Q. Okay. And what did they say at that
2 3 4 5 6 7 8	A. I think I think the pharmacist said that something about it was the pill had too little or too much or they weren't sure. Q. Do you recall who it was that you spoke to at Kroger? A. No. Q. Is that the pharmacy that you've been	2 3 4 5 6 7 8	apologies. When you first got the letter, initially you told me you called them. A. No. Q. No, you didn't call them? A. No, I went I went in to see them. Q. Okay. And what did they say at that time?
2 3 4 5 6 7 8 9	A. I think I think the pharmacist said that something about it was the pill had too little or too much or they weren't sure. Q. Do you recall who it was that you spoke to at Kroger? A. No. Q. Is that the pharmacy that you've been well, let me back up. Do you still go to Kroger pharmacy? A. Yes.	2 3 4 5 6 7 8 9	apologies. When you first got the letter, initially you told me you called them. A. No. Q. No, you didn't call them? A. No, I went I went in to see them. Q. Okay. And what did they say at that time? A. The young lady that looked like maybe a
2 3 4 5 6 7 8 9	A. I think I think the pharmacist said that something about it was the pill had too little or too much or they weren't sure. Q. Do you recall who it was that you spoke to at Kroger? A. No. Q. Is that the pharmacy that you've been well, let me back up. Do you still go to Kroger pharmacy? A. Yes. Q. How long had you been filling your	2 3 4 5 6 7 8 9	apologies. When you first got the letter, initially you told me you called them. A. No. Q. No, you didn't call them? A. No, I went I went in to see them. Q. Okay. And what did they say at that time? A. The young lady that looked like maybe a high school kid worked behind she didn't know
2 3 4 5 6 7 8 9	A. I think I think the pharmacist said that something about it was the pill had too little or too much or they weren't sure. Q. Do you recall who it was that you spoke to at Kroger? A. No. Q. Is that the pharmacy that you've been well, let me back up. Do you still go to Kroger pharmacy? A. Yes. Q. How long had you been filling your prescriptions at Kroger?	2 3 4 5 6 7 8 9 10	apologies. When you first got the letter, initially you told me you called them. A. No. Q. No, you didn't call them? A. No, I went I went in to see them. Q. Okay. And what did they say at that time? A. The young lady that looked like maybe a high school kid worked behind she didn't know anything about it.
2 3 4 5 6 7 8 9 10 11	A. I think I think the pharmacist said that something about it was the pill had too little or too much or they weren't sure. Q. Do you recall who it was that you spoke to at Kroger? A. No. Q. Is that the pharmacy that you've been well, let me back up. Do you still go to Kroger pharmacy? A. Yes. Q. How long had you been filling your	2 3 4 5 6 7 8 9 10 11	apologies. When you first got the letter, initially you told me you called them. A. No. Q. No, you didn't call them? A. No, I went I went in to see them. Q. Okay. And what did they say at that time? A. The young lady that looked like maybe a high school kid worked behind she didn't know anything about it. Q. Okay.
2 3 4 5 6 7 8 9 10 11 12	A. I think I think the pharmacist said that something about it was the pill had too little or too much or they weren't sure. Q. Do you recall who it was that you spoke to at Kroger? A. No. Q. Is that the pharmacy that you've been well, let me back up. Do you still go to Kroger pharmacy? A. Yes. Q. How long had you been filling your prescriptions at Kroger?	2 3 4 5 6 7 8 9 10 11 12	apologies. When you first got the letter, initially you told me you called them. A. No. Q. No, you didn't call them? A. No, I went I went in to see them. Q. Okay. And what did they say at that time? A. The young lady that looked like maybe a high school kid worked behind she didn't know anything about it. Q. Okay. A. The pharmacist, the only one that was on
2 3 4 5 6 7 8 9 10 11 12 13	A. I think I think the pharmacist said that something about it was the pill had too little or too much or they weren't sure. Q. Do you recall who it was that you spoke to at Kroger? A. No. Q. Is that the pharmacy that you've been well, let me back up. Do you still go to Kroger pharmacy? A. Yes. Q. How long had you been filling your prescriptions at Kroger? A. I guess maybe 10 or 11 years.	2 3 4 5 6 7 8 9 10 11 12 13	apologies. When you first got the letter, initially you told me you called them. A. No. Q. No, you didn't call them? A. No, I went I went in to see them. Q. Okay. And what did they say at that time? A. The young lady that looked like maybe a high school kid worked behind she didn't know anything about it. Q. Okay. A. The pharmacist, the only one that was on duty, he didn't know anything about it.
2 3 4 5 6 7 8 9 10 11 12 13 14 15	A. I think I think the pharmacist said that something about it was the pill had too little or too much or they weren't sure. Q. Do you recall who it was that you spoke to at Kroger? A. No. Q. Is that the pharmacy that you've been well, let me back up. Do you still go to Kroger pharmacy? A. Yes. Q. How long had you been filling your prescriptions at Kroger? A. I guess maybe 10 or 11 years. Q. Were there any times when you would	2 3 4 5 6 7 8 9 10 11 12 13 14	apologies. When you first got the letter, initially you told me you called them. A. No. Q. No, you didn't call them? A. No, I went I went in to see them. Q. Okay. And what did they say at that time? A. The young lady that looked like maybe a high school kid worked behind she didn't know anything about it. Q. Okay. A. The pharmacist, the only one that was on duty, he didn't know anything about it. Q. Okay.
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	A. I think I think the pharmacist said that something about it was the pill had too little or too much or they weren't sure. Q. Do you recall who it was that you spoke to at Kroger? A. No. Q. Is that the pharmacy that you've been well, let me back up. Do you still go to Kroger pharmacy? A. Yes. Q. How long had you been filling your prescriptions at Kroger? A. I guess maybe 10 or 11 years. Q. Were there any times when you would utilize any other pharmacy other than Kroger to fill	2 3 4 5 6 7 8 9 10 11 12 13 14 15	apologies. When you first got the letter, initially you told me you called them. A. No. Q. No, you didn't call them? A. No, I went I went in to see them. Q. Okay. And what did they say at that time? A. The young lady that looked like maybe a high school kid worked behind she didn't know anything about it. Q. Okay. A. The pharmacist, the only one that was on duty, he didn't know anything about it. Q. Okay. A. So I went home.
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	A. I think I think the pharmacist said that something about it was the pill had too little or too much or they weren't sure. Q. Do you recall who it was that you spoke to at Kroger? A. No. Q. Is that the pharmacy that you've been well, let me back up. Do you still go to Kroger pharmacy? A. Yes. Q. How long had you been filling your prescriptions at Kroger? A. I guess maybe 10 or 11 years. Q. Were there any times when you would utilize any other pharmacy other than Kroger to fill your prescriptions?	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	apologies. When you first got the letter, initially you told me you called them. A. No. Q. No, you didn't call them? A. No, I went I went in to see them. Q. Okay. And what did they say at that time? A. The young lady that looked like maybe a high school kid worked behind she didn't know anything about it. Q. Okay. A. The pharmacist, the only one that was on duty, he didn't know anything about it. Q. Okay. A. So I went home. Q. Okay.
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	A. I think I think the pharmacist said that something about it was the pill had too little or too much or they weren't sure. Q. Do you recall who it was that you spoke to at Kroger? A. No. Q. Is that the pharmacy that you've been well, let me back up. Do you still go to Kroger pharmacy? A. Yes. Q. How long had you been filling your prescriptions at Kroger? A. I guess maybe 10 or 11 years. Q. Were there any times when you would utilize any other pharmacy other than Kroger to fill your prescriptions? A. No. Q. Do you recall the contents of the letter	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	apologies. When you first got the letter, initially you told me you called them. A. No. Q. No, you didn't call them? A. No, I went I went in to see them. Q. Okay. And what did they say at that time? A. The young lady that looked like maybe a high school kid worked behind she didn't know anything about it. Q. Okay. A. The pharmacist, the only one that was on duty, he didn't know anything about it. Q. Okay. A. So I went home. Q. Okay. A. And I was ready to forget about it. And then a few days later, I got the phone call from them.
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	A. I think I think the pharmacist said that something about it was the pill had too little or too much or they weren't sure. Q. Do you recall who it was that you spoke to at Kroger? A. No. Q. Is that the pharmacy that you've been well, let me back up. Do you still go to Kroger pharmacy? A. Yes. Q. How long had you been filling your prescriptions at Kroger? A. I guess maybe 10 or 11 years. Q. Were there any times when you would utilize any other pharmacy other than Kroger to fill your prescriptions? A. No. Q. Do you recall the contents of the letter that was sent to you from Kroger? In other words,	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	apologies. When you first got the letter, initially you told me you called them. A. No. Q. No, you didn't call them? A. No, I went I went in to see them. Q. Okay. And what did they say at that time? A. The young lady that looked like maybe a high school kid worked behind she didn't know anything about it. Q. Okay. A. The pharmacist, the only one that was on duty, he didn't know anything about it. Q. Okay. A. So I went home. Q. Okay. A. And I was ready to forget about it. And then a few days later, I got the phone call from them. Q. Okay.
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	A. I think I think the pharmacist said that something about it was the pill had too little or too much or they weren't sure. Q. Do you recall who it was that you spoke to at Kroger? A. No. Q. Is that the pharmacy that you've been well, let me back up. Do you still go to Kroger pharmacy? A. Yes. Q. How long had you been filling your prescriptions at Kroger? A. I guess maybe 10 or 11 years. Q. Were there any times when you would utilize any other pharmacy other than Kroger to fill your prescriptions? A. No. Q. Do you recall the contents of the letter that was sent to you from Kroger? In other words, do you recall what it said?	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	apologies. When you first got the letter, initially you told me you called them. A. No. Q. No, you didn't call them? A. No, I went I went in to see them. Q. Okay. And what did they say at that time? A. The young lady that looked like maybe a high school kid worked behind she didn't know anything about it. Q. Okay. A. The pharmacist, the only one that was on duty, he didn't know anything about it. Q. Okay. A. So I went home. Q. Okay. A. And I was ready to forget about it. And then a few days later, I got the phone call from them. Q. Okay. A. "Get your medicine in here."
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	A. I think I think the pharmacist said that something about it was the pill had too little or too much or they weren't sure. Q. Do you recall who it was that you spoke to at Kroger? A. No. Q. Is that the pharmacy that you've been well, let me back up. Do you still go to Kroger pharmacy? A. Yes. Q. How long had you been filling your prescriptions at Kroger? A. I guess maybe 10 or 11 years. Q. Were there any times when you would utilize any other pharmacy other than Kroger to fill your prescriptions? A. No. Q. Do you recall the contents of the letter that was sent to you from Kroger? In other words, do you recall what it said? A. No, I think it just had some bold	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	apologies. When you first got the letter, initially you told me you called them. A. No. Q. No, you didn't call them? A. No, I went I went in to see them. Q. Okay. And what did they say at that time? A. The young lady that looked like maybe a high school kid worked behind she didn't know anything about it. Q. Okay. A. The pharmacist, the only one that was on duty, he didn't know anything about it. Q. Okay. A. So I went home. Q. Okay. A. And I was ready to forget about it. And then a few days later, I got the phone call from them. Q. Okay. A. "Get your medicine in here."
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24	A. I think I think the pharmacist said that something about it was the pill had too little or too much or they weren't sure. Q. Do you recall who it was that you spoke to at Kroger? A. No. Q. Is that the pharmacy that you've been well, let me back up. Do you still go to Kroger pharmacy? A. Yes. Q. How long had you been filling your prescriptions at Kroger? A. I guess maybe 10 or 11 years. Q. Were there any times when you would utilize any other pharmacy other than Kroger to fill your prescriptions? A. No. Q. Do you recall the contents of the letter that was sent to you from Kroger? In other words, do you recall what it said? A. No, I think it just had some bold letters, Digitek, and it was like a form letter that you get when they send you a letter concerning one	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24	apologies. When you first got the letter, initially you told me you called them. A. No. Q. No, you didn't call them? A. No, I went I went in to see them. Q. Okay. And what did they say at that time? A. The young lady that looked like maybe a high school kid worked behind she didn't know anything about it. Q. Okay. A. The pharmacist, the only one that was on duty, he didn't know anything about it. Q. Okay. A. So I went home. Q. Okay. A. And I was ready to forget about it. And then a few days later, I got the phone call from them. Q. Okay. A. "Get your medicine in here." Q. So that's when you went back the second time?

5 (Pages 17 to 20)

r			
	Page 21		Page 23
1	Q. What medication were you taking between	1	"Bring it in and we will replace it with the new
2	the time that you received the letter and the time	2	drug."
3	that you went back to the pharmacy the second time?		Q. If the letter did state that you were
4	A. Concerning the Digitek?	4	eligible for a refund, would you have taken
5	Q. That's right.	5	advantage of that?
6	A. One a day.	6	A. A refund or a replacement.
7	Q. Okay. So you continued to take it until	7	Q. Refund for the Digitek that you had not
8	you went back to the pharmacy the second time?	8	taken, your remaining prescription?
9	A. Yes, ma'am.	9	A. Sure, I would have taken a refund
10	Q. Okay. All right. So we've talked about	10	because I would have had to apply it to the new
11	the time spent going back and forth to the pharmacy	11	prescription.
12	two times and the trip to the cardiologist.	12	Q. Now, do you understand that you are a
13	A. Yes.	13	class action representative in this litigation?
14	Q. Are there any other economic damages	14	A. Yes.
15	that you believe you suffered?	15	
1	· · · · · · · · · · · · · · · · · · ·	16	
16		t	
17	Q. So, for example, you don't have any lost	17	group of people who have the same feelings as I do.
18	wage claim; is that correct?	18	Q. And why was it you decided that you
19	A. No.	19	would be a class representative rather than just a
20	Q. And you don't have any claim for	20	member of the class?
21	out-of-pocket expenses other than the cost of	21	A. I sort of felt like somebody had to do
22	gasoline to and from the pharmacy?	22	it, and I sort of volunteered.
23	A. And the prescription.	23	Q. Okay. Have you spoken to any other
24	Q. Which prescription?	24	members of the class
25	A. The digoxin or the Digitek, whatever I	25	A. No.
	Page 22		Page 24
1	was taking.	1	Q that you represent?
2	Q. Okay.	2	Do you know what their injuries are?
3	A. And I had a co-pay on that stuff.	3	A. No.
4	Q. Okay. How much was your co-pay?	4	Q. Do you know how many of them there are?
5	A. I think it was a generic, like five	5	A. I have no idea.
6	bucks.	6	Q. Do you know if they have only economic
7	Q. And let's be clear. Was that for the	7	injuries or if they also have personal injury?
8	Digitek, or was that for the new prescription or	8	A. I think this group has economic injuries
9	both?	9	only.
10	A. I think both were generic.	10	Q. When did you decide to file this lawsuit
11	Q. So your co-pay for a 90-day supply was	1.1	or become involved in this lawsuit?
12	\$5?	12	A. Whatever the date is on this.
13	A. For 90 days, it was \$10.	13	THE WITNESS: Do you have a date on
14	Q. For 90 days, it was \$10.	14	this?
15	And you had already taken approximately 60	15	MR. FRANKOVITCH: I don't remember
16	tablets out of the 90-day supply and had 30 tablets	16	the
17	left?	17	MS. CARTER: The signature page.
18	A. Yes.	18	BY MS. DOWNIE:
19	Q. Do you recall, when you received the	19	Q. I believe there's a signature page
20	letter from Kroger, if there was any information	20	A. Whenever I signed it, yeah.
21	regarding returning the product and receiving a	21	Q either page 13 or 18.
22	refund?	22	A. 5/13/09.
23	A. I'm not sure. I'm not sure about the	23	Q. Okay. So in May of 2009 is when you
		4.3	U. UKAY, DU III IYIAY UI ZUUZ IS WIICII VUU I
	i	24	
23 24 25	letter. I thought I thought it possibly said the same thing that that they told me on the phone,	24 25	decided to become involved in this litigation; is that correct?

6 (Pages 21 to 24)

	 	Page 25		Page 27
1	Α.	Yes, ma'am.	1	use it's not a secret.
2		Had you spoken to any attorneys prior to	2	BY MS. DOWNIE:
3		009 about becoming involved in this	3	Q. In May of 2009, other than the
4	litigation		4	pharmacist at Kroger, who else did you speak to
5		No. I filled this out a little bit	5	about this litigation?
6		poke to Timothy Lange, the attorney	6	A. No one except Tim Lange.
7		Uh-huh.	7	Q. Other than having a conversation with
8	•	before he sent me all this stuff.	8	the pharmacist, was there did you were you
9		Is he a relation to you?	9	aware of the litigation that was pending in any
10		He is my first cousin's son.	10	other way? In other words, did you see anything on
11		Okay. Now, how did you first become	11	the news, read anything?
12		at there was litigation pending involving	12	A. No.
13		at there was intigation pending involving	13	Q. So without that conversation with the
14	Digitek?	Uma mat ayuna I think thuayah tha	14	
•		I'm not sure. I think through the	15	pharmacist, you would not have been aware of this
15		y. I think the pharmacist said something to		litigation?
1.6	me about	i di	16	A. Right.
1.7		When was that?	17	Q. Okay. Did the pharmacist suggest that
18		n May.	18	you should speak to an attorney?
19	~	Of 2009?	19	A. She just no, she just said there's a
20		Yes, ma'am.	20	possible could be a possible class action suit.
21		Was this which pharmacist was this?	21	So I assumed that's what I should do.
22		One of Kroger's pharmacists.	22	Q. And what did you do to get what was
23		Do you recall the name?	23	your next step then in getting involved in
24		No, they change every week there.	24	litigation?
25	Q. I	How did they know in May of 2009 that	25	A. I called Mr. Lange.
		Page 26		Page 28
1	you had b	peen taking Digitek?	1	Q. Okay. And how long after your
2	Α. \	When they when they changed the	2	conversation with the pharmacist was it that you
3	pills the	ey exchanged the pills	3	called Mr. Lange?
4	Q. T	Jh-huh.	4	A. A week, two weeks.
5		- the lady said, "With this happening,	5	Q. And did you understand that you could
6		ld be a class action suit."	6	have a claim on your own rather than being a class
7	Q. U	Jh-huh.	7	representative in a class action?
8		She said, "You might want to look into	8	A. I don't know. I didn't I have no
9	it."		9	idea.
10		Do you recall when it was that you	10	Q. Okay. In your own words, what do you
11		the letter from Kroger?	11	believe the defendants did wrong with respect to
12		No, it would be April. I'm sure it	12	Digitek the Digitek that you were taking?
1.3	would be		13	A. I don't know. I don't know.
14		Of what year?	14	Q. Now, you have strike that.
15		2009.	15	When did you first start taking Digitek?
16		2009?	16	A. Probably seven or eight years ago.
17	•	Yes, ma'am.	17	Q. And what were you prescribed the Digitek
18		Are you certain of that?	18	for, what condition?
19		Well, not really.	19	A. When I started having my a-fib
20		Okay. Do you know when the recall was	20	problems
21	issued?	oray. Do you know when the recall was	21	Q. Uh-huh.
22		No. It was in 2009.	22	
44	۸. I'	10. It was III 2007,		 A I think that they gave me Digitek
22		S DOWNIE: Carl you've got to lot	22	just to keep my heart rate in sheet an alare it de
23	M	S. DOWNIE: Carl, you've got to let	23	just to keep my heart rate in check or slow it down
23 24 25	M the witnes		23 24 25	just to keep my heart rate in check or slow it down or whatever it does. Q. During that seven- to eight-year time

7 (Pages 25 to 28)

	Page 29		Page 31
1	period that you were taking Digitek, to your	1	A. And that was in October of '08, and then
2	knowledge, did you ever take any other form of	2	they took me off that.
3	Digitek or digoxin, rather?	3	Q. Okay.
4	A. No, ma'am.	4	A. I haven't taken it since the heart
5	Q. Did you ever take a drug called Lanoxin?	5	attack.
6	A. No.	6	Q. Was Dr. McMartin still your cardiologist
7	Q. What medications do you currently take?	7	at that time?
8	A. I've got a long piece of paper.	8	A. Yes, ma'am.
9	Q. We're ready.	9	Q. And where were you treated for your
10	A. I take Pacerone.	10	heart attack?
11	Q. Uh-huh.	11	A. Jewish Hospital.
1.2	A. And I take I should've brought my	12	Q. During the time that you were taking
13	list with me, I guess.	13	digoxin and between the time that you returned the
14	Q. Just do the best you can.	14	Digitek in October of 2008, you were receiving
15	A. I take I got a whole pocketful of	15	digoxin; is that correct?
16	them I need to take right now. They are mostly	16	A. Yes.
17	vitamins. I take a pill that has some nitroglycerin	17	Q. Do you know who manufactured the digoxin
18	in it to keep a couple of veins open. It's not	18	that you were receiving?
19	listed in here, is it?	19	A. No idea.
20	MR. FRANKOVITCH: You're welcome to look	20	Q. And do you know why it was that your
21	at that if it helps refresh your recollection.	21	digoxin was discontinued in October of 2008?
22	THE WITNESS: Yeah, there's a few of	22	A. It was discontinued because and I
23	them listed in this.	23	think I think back then I was also taking Plavix.
24	MR. FRANKOVITCH: These (indicating).	24	Q. Uh-huh.
25	THE WITNESS: Yeah, okay.	25	A. So the digoxin and the Plavix was
	Page 30		Page 32
1	A. Isosorbide.	1	discontinued because I no longer have a right
2	Q. Okay.	2	coronary artery. I grew some new veins, and they
3	A. One of these I'm off of. I take the	3	said I didn't need that anymore.
4	generic for Coumadin, and I'm not sure which one it	4	Q. Okay. Let's turn to your current
5	is here. And I take Vytorin and Procardia and one	5	medical condition.
6	Prevacid a day.	6	You have high blood pressure; is that right?
7	Q. Is that all you can recall?	7	A. No.
8	A. That's all.	8	Q. No.
9	Q. Okay.	9	Have you ever been treated for hypertension?
10	A. Several vitamins.	1.0	A. For high blood pressure?
11	MR. FRANKOVITCH: I think he already	11	Q. Right.
12	testified he was taking digoxin also.	12	A. Yes.
13	BY MS. DOWNIE:	13	Q. All right. High cholesterol have you
14	Q. Are you still taking digoxin?	14	been treated for high cholesterol?
15	A. No.	15	A. Yes.
16	MR. FRANKOVITCH: Oh, okay.	16	Q. And you had an extensive coronary
17	BY MS. DOWNIE:	17	history; is that fair to say?
18	Q. You testified that after you took the	18	A, Yes.
19	Digitek back, you were given a prescription for	19	Q. How many heart attacks have you had?
20	digoxin; is that correct?	20	A. Two.
21	A. Yes, ma'am.	21	Q. Two.
22	Q. How long did you continue to take the	22	So we have the one in October of 2008?
23	digoxin?	23	A. Yes.
24	A. Until I had a heart attack.	24	Q. And when was the other one?
25	Q. And when was that?	25	A. March of '09.

8 (Pages 29 to 32)

		1		
	Page 33			Page 35
1 Q. N	∕larch '09.	1	Α.	No.
1	you've also undergone some angioplasty	2	Q.	You don't recall that?
1	Yes.	3	À.	(Witness shakes head negatively.)
4 Q	- procedures; is that correct?	4	Q.	In 2003 at Jewish Hospital, does that
	nany times have you undergone angioplasty?	5	refresh	your recollection?
6 A, I	lost track maybe six, seven.	6	A.	Yes, that was probably an angioplasty.
	Okay. Now, has that been since the	7	Q.	All right. Now, when you was it
	s? Would that be a fair characterization?	8	Dr. Mc	Martin that wrote the prescription for you for
9 A. Y	Yes, ma'am.	9	digoxir	1?
10 Q. Y	You've had coronary artery bypass	10	Ā.	Yes.
11 surgery as	s well; is that correct?	11	Q.	Did you ever receive a prescription for
12 Å. Y	Yeah.	12	digoxir	or Digitek from any other physician other
13 Q. C	Okay. And how many times have you had	13	than Di	r. McMartin?
14 that partic		14	A.	No, ma'am.
15 A. C	One time.	15	Q.	When he would write the prescription for
16 Q	- procedure?	16	you, do	you know whether or not he wrote it for
_	hen was that?	17		or Digitek?
18 A. Ja	anuary of '90.	18	A.	Digitek.
19 Q. A	And you've also been treated for	19	Q.	If you received if your records
20 degenerati	ive joint disease; is that fair?	20	indicate	e that you received another form of digoxin
21 A. N	No. I have arthritis.	21	called I	Lanoxin, do you have any recollection of
22 Q. C	Okay.	22	that?	
23 A. A	And I had a knee replacement.	23	A.	No.
24 Q. C	Okay. Fair enough.	24	Q.	At one point in time, were you taking
25 Have y	you ever been told that your renal	25	Neuron	tin as well?
	Page 34			Page 36
1 function h	nad been compromised? Were you seen in a	1	Α.	What?
2 renal clini		2	Q.	A drug called Neurontin? Were you
	4o.	3	~	numbness, what they call peripheral
	Oo you recall that?	4	neuropa	
	Witness shakes head negatively.)	5	A.	Yes.
	Oo you recall having to be careful about	6	Q.	Okay. When was that?
	birin and nonsteroidal antiinflammatories?	7	Q. А.	I still take that.
	Yeah. The fact is, I went several years	8	Q.	Okay. So you still take Neurontin,
	heumatologist.	9	then, as	
	Jh-huh.	1.0	A.	Yes.
. ~	and she advised me on what to take and	11	Q.	Now, when we first started out here and
12 what not to		12		I opportunity to look at your fact sheet and
	Okay. Have you also been treated for a	13		ed about your personal injury being
14 stomach u		14		wn, you said that you had an opportunity to
	es.	15		physicians about your two heart attacks.
	and at some point in time and you're	16	A,	
	g the Coumadin you were being seen in	17	Q.	Who did you talk to?
	lin clinic; is that correct?	18	A.	Dr. McMartin and I don't remember.
	es.	19		a foreigner. He would come in and see me all
	Oo you still regularly go to the	20		when I was in the hospital.
•		21	Q.	Okay.
21 Coumadin		22	Α.	I don't remember his name. He is one of
21 Coumadin 22 A. Y	es.			
22 A. Y	·	23	the grou	
22 A. Y 23 Q. H	lave you undergone a procedure called	23 24		ıp at the medical internists I mean
22 A. Y 23 Q. H 24 cardiovers	·		the grou cardiolo Q.	ıp at the medical internists I mean

9 (Pages 33 to 36)

	Page 37		Page 39
1	that Dr. McMartin was with?	1	A. Every morning,
2	A. Yes.	2	Q. Would you take it before or after you
3	Q. And you spoke to both of them about your	3	ate?
4	injuries or claims; is that correct or no? Did	4	A. After breakfast.
5	you talk to both of them about whether or not you	5	Q. Were there times when you were
6	had suffered injuries as a result of your ingestion	6	experiencing a-fib that you would alter your
7	of Digitek?	7	medication in any respect?
8	A. No.	8	A. No.
9	Q. What conversation did you have with	9	Q. Would you call your physicians and talk
10	them, then?	10	to him about whether or not to alter your
11	A. "Am I going to live from this heart	11	medication?
12	attack?" I really at that particular time, I	12	A. I did. I called I've talked to him,
1.3	never had Digitek on my mind.	13	and I never I never wanted to go get shocked, and
14	Q. Okay. Have you talked to any of your	14	he said, "Just wait it out. It will go away." And
15	physicians about your lawsuit?	15	it always went away.
16	A. No.	16	Q. Now, if I were to suggest to you that
1.7	Q. What hospitals have you been admitted to	17	the recall occurred in April of 2008 rather than
18	over a time over the last 10 years, let's say?	18	April of 2009, does that refresh your recollection?
19	We know Jewish Hospital.	19	A. Could have been. I'm not sure.
20	A. Jewish and St. Mary and Elizabeth.	20	Q. Okay. You testified earlier that you
21	Q. Who is your current primary care	21	decided to pursue a lawsuit after speaking to the
22	physician?	22	pharmacist, and earlier you testified that you
23	A. David Britt, B-R-I-T-T.	23	believed that that conversation was sometime in May
24	Q. And how long has Dr. Britt been your	24	of 2009. Is that correct? Do you recall that
25	primary care physician?	25	testimony?
	Page 38		Page 40
_		_	-
1	A. Since, I guess, maybe December of '89.	1	A. Yes, I'm not good on dates. You tell
2	Q. Okay. Other than Dr. Britt and your	2	if it was it could have 2008 rather than 2009.
3	cardiologist, are there any other physicians that	3	I'm not sure.
4	you see regularly?	4	Q. Well, I guess what I'm wondering is, if
5	A. Not regularly. I see Dr. Paul Brown,	5	you had the conversation with the pharmacist in
6	but he's a gastroenterologist whatever you call	6	April of 2008 when the recall happened, it appears
7	it gastro man concerning my ulcer every now	7	then that you waited a year to pursue a lawsuit, or
8	and then.	8	perhaps you had another conversation in 2009 that
9	Q. So you see him more on an as-needed	9	you're not recalling?
10	basis?	10	A. I don't know. I don't know.
11	A. Yes,	11	Q. Okay. Your recollection is that you had
12	Q. Is there anybody else?	12	a conversation with the pharmacist when you returned
13	A. No.	13	your product; is that correct?
14	Q. Just to confirm, I think I don't	14	A. Yes.
15 16	think I asked this question earlier. You're not	15	Q. Was it during that conversation that the
16	making any claim for any kind of mental or emotional	16	pharmacist mentioned to you something about a class
17	injury, are you?	17	action or that you should investigate that?
18	A. No.	18	A. Yes.
19	Q. Was there ever a time when you took your	19	Q. Okay.
20	Digitek that you would skip a day?	20	A. Now, I think thinking about it now
21	A. No.	21	Q. Uh-huh.
22	Q. Would you ever take more than what was	22	A it was 2008 because 2009 was just a
23	prescribed?	23	few months ago.
24 25	A. No. Q. When did you take your Digitek?	24 25	Q. Well, we're in 2009.
43	O. When did you take your Digitek?	40	A. I know it, and it was just a few months

10 (Pages 37 to 40)

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1	ago. So I don't know when all of this took place,	1.	changed your mind with those claims?
2	but probably the recall was in 2008.	2	A. Well, after talking to my doctor and Tim
3	Q. Right.	3	Lange
4	A. I just got my years mixed up.	4	Q. Uh-huh,
5	Q. Okay. So initially you testified that	5	A we both decided sort of decided or we
6	after speaking to the pharmacist you called	6	all sort of decided that Digitek had nothing to do
7	Mr. Lange about two weeks later?	7	with my heart condition.
8	A. No. I'm not sure. It seems like it.	8	Q. Okay. And I don't want you to tell me
9	It seems like two weeks later, but I don't know. I	9	about your conversations with Mr. Lange, but in
10	really I'm not positive from the time of the	1.0	terms of the conversation you had with your doctor,
11	recall to the time of my phone call with this	11	what conversation was that?
12	attorney what the length of time was.	12	A. He said that none of the medications
13	Q. Okay. After your initial phone call	13	that I was on at that particular time had anything
14	with the attorney, how long was it until you filed	14	to do with my heart condition.
15	your lawsuit, if you know?	1.5	Q. Okay. And which doctor was this?
16	A. I probably I talked to Tim Lange, and	16	A. McMartin.
17	we had several conversations, and then it was it	17	Q. And when did you have that conversation?
18	was months before he sent me this stuff.	18	A. Shortly after I died it was after my
19	Q. Okay. Okay. Now, do you understand	19	heart attack. They told me that one of my one of
20	what, if any, obligations you have as a class	20	my stents had twisted
21	representative?	21	Q. Uh-huh,
22	A. Just to be actually a spokesperson for	22	A and shut everything off.
23	the rest of these people, whoever is involved.	23	Q. I see.
24	Q. But you haven't spoken to those people,	24	Was that your heart attack in October of 2009
25	and you don't know how many of them there are?	25	[sic]?
	Page 42		Page 44
1	A. I have no idea.	1	A. That's right.
2	Q. You have no idea what their injuries	2	Q. Did you ask him specifically whether or
3	are their alleged injuries?	3	not he believed any of the medication you were on,
4	A. No.	4	including Digitek, had anything to do with your
5	MS. DOWNIE: Why don't we take a break.	5	heart attack?
6	(A BRIEF RECESS WAS TAKEN.)	6	A. No.
7	BY MS. DOWNIE:	7	Q. Or did you ask him what had caused your
8	Q. How far do you live from the pharmacy	8	heart attack?
9	Kroger pharmacy? How far of a distance is that?	9	A. Yes.
10	A. About a mile.	10	Q. And that's when he told you what his
11	Q. Okay. So what is your home you told	11	thoughts were?
12	us what your home address was.	12	A. Yes.
13	A. Yes.	13	Q. And then you also had a conversation
14	Q. And is that the same address that you	14	with your attorney?
15	were at at the time that the recall occurred?	15	A. Yes,
16	A. Yes,	16	Q. Okay. You testified that you were on
17	Q. So it was about a mile distance, two	17	Digitek for approximately seven to eight years until
18	miles round trip that you drove?	18	the recall occurred; is that correct?
19	A. Yes.	19	A. Yes.
20	Q. Okay. We've talked about this a little	20	Q. And you don't recall taking any other
21	bit before, and I just want to make sure that I'm	21	form of digoxin, whether Lanoxin or anything else?
22	clear on your testimony.	22	A. No.
23	Earlier you testified that you had decided not	23	Q. Okay. After the recall, you were placed
24	to pursue your personal injury claims. I just want	24	on digoxin; is that correct?
25	to make sure that I'm understanding exactly why you	25	A. Yes, ma'am.

11 (Pages 41 to 44)

	Page 45		Page 47
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1	Q. When you made that switch, did you have a did you notice anything different in your	1 2	Q. Do you recall reading any anything in
3	condition or how you were feeling?	3	the newspaper or seeing anything on TV regarding Digitek or digoxin?
1	A. No.	4	
4		5	A. No, ma'am.
5	Q. Okay. And the Digitek that you took for		Q. What prognosis have your physicians
6 7	the seven to eight years, was that effective in	6 7	given you with your heart problems since your heart
7	treating your condition as far as you knew?	8	attack in October of 2009?
8	A. I really don't know. I'm not a doctor,	9	A. Not much. When my doctor said how lucky
9	so I I did well, I guess.	10	I was, he said, "You and the man upstairs grew these
1.0	Q. Okay. Bear with me here. A. Sure.	11	two new veins for you that are moving the blood."
12		12	I said, "How long are they going to last?"
13	Q. I'm going to be skipping around a little	Í	And he said, "As long as you want them to."
1	bit.	13	So I don't even worry about it anymore. I
14	What did the Digitek look like; do you recall?	14	don't worry about it.
15	A. Just a very small, flat white pill.	15	(INQUIRY BY THE COURT REPORTER.)
16	Q. Do you recall if it had any imprinting	16	Q. Okay. You had a wait a minute.
17	on it, any letters on it?	1.7	A. A heart attack.
18	A. No.	18	Q. 2008. Now you've got me doing it, 2008.
19	Q. Do you recall what the digoxin looked	19	Thank you.
20	like?	20	A. No, no.
21	A. Very similar.	21	MR. SIMON: It was this year?
22	Q. And, again, do you recall if there was	22	MS. DOWNIE: Wait.
23	any printing on that?	23	A. My first heart attack was in October of
24	A. No.	24	2007
25	Q. Do you recall if either one of those	25	Q. Okay.
1	Dage 46		
	Page 46		Page 48
1	pills were cross-scored, in other words, had a line	1	A and then followed by one in March of
1 2		2	
I	pills were cross-scored, in other words, had a line		A and then followed by one in March of 2008, and I haven't had a heart attack for a year and a half.
2	pills were cross-scored, in other words, had a line down the center? A. It might have. I'm not sure. Q. Do you keep any diaries regarding your	2 3 4	A and then followed by one in March of 2008, and I haven't had a heart attack for a year and a half. Q. I had originally written down October
2 3	pills were cross-scored, in other words, had a line down the center? A. It might have. I'm not sure. Q. Do you keep any diaries regarding your health problems?	2 3 4 5	A and then followed by one in March of 2008, and I haven't had a heart attack for a year and a half.
2 3 4	pills were cross-scored, in other words, had a line down the center? A. It might have. I'm not sure. Q. Do you keep any diaries regarding your	2 3 4	A and then followed by one in March of 2008, and I haven't had a heart attack for a year and a half. Q. I had originally written down October
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12 (Pages 45 to 48)

	Page 49		Page 51
1	March of 2008?	1	Q. Okay. And you testified earlier that
2	A. Yes, ma'am.	2	one of those conversations happened with
3	Q. And let me go back then, a second.	3	Dr. McMartin after your second heart attack?
4	Originally you had testified that it was after	4	A. Yes.
5	your second heart attack that you had the	5	Q. Okay. And that was in March of 2008?
6	conversation with Dr. McMartin regarding what had	6	A. Yes.
7	caused your heart attack; do you recall that?	7	Q. Okay. But then a year later, you filled
8	A. After each of them, I had yes	8	out the fact sheet indicating that you thought your
9	Q. Okay.	9	two heart attacks were actually related to your
10	A I had a conversation.	10	ingestion of Digitek?
11	Q. So after each of your heart attacks, you	11	A. If that's what it says.
12	had a conversation with Dr. McMartin about what the	12	Q. Well, you filled it out.
13	cause of your heart attacks were?	13	A. I guess so. Where does it say that?
14	A. Yes, ma'am.	14	MS. DOWNIE: Sure. May I?
15	Q. And on both occasions, he told you that	1.5	MR. FRANKOVITCH: Yeah, that's fine.
16	the heart attacks were not caused by the medications	16	MS. DOWNIE: Carl can help you.
17	that you were taking; is that correct?	17	A. You know, I wrote that in there just, I
18	A. Not per se, no.	18	guess, in case it had something to do with personal
19	Q. Okay.	19	injury.
20	A. He just said that the first one was from	20	Q. Okay. Just in case what had something
21	a twisted stent.	21	to do with personal injury?
22	Q. Okay.	22	A. My heart attacks. I mean, the question
23	A. And the second one was from all the	23	was, "What bodily injury do you (inaudible)
24	stents being clogged.	24	(INQUIRY BY THE COURT REPORTER.)
25	Q. Okay. Then I am even more confused, I'm	25	A "What bodily injury do you claim
		47	
	Page 50		Page 52
1	afraid.	1.	resulted from your use of Digitek?" And I guess I
2	You signed your fact sheet in May of 2009, and	2	could have put "none"
3	at that time, you indicated you believed your two	3	Q. Uh-huh.
4	heart attacks were related to your ingestion of	4	A which would maybe have been more
5	Digitek?	5	appropriate, but I just wrote that down.
6	A. Possibly.	6	Q. Would "none" have been more appropriate
7	Q. Possibly.	7	in your case?
8	May of 2009 was well after your last heart	8	A. "None" would have been more appropriate,
9	attack in March of 2008.	9	yes, ma'am.
10	A. We're talking about this sheet	10	Q. Okay. And you've subsequently talked to
11	(indicating)?	11	your attorneys; is that correct?
12	Q. Yeah.	12	A. Yes.
13	A. That's when I filled it out, in 2009.	13	Q. So you talked to Dr. McMartin, and you
14	Q. I appreciate that. And I'm just trying	14	testified that you talked to Mr. Lange as well?
15	to understand, since we had some previous testimony	15	A. Yes.
16	about when certain things occurred.	16	MR. FRANKOVITCH: And to me.
17	Earlier you testified that you filled that out	17	BY MS. DOWNIE:
18	and then you subsequently talked to your	18	Q. And to Mr. Frankovitch?
19	physicians	19	A. Yeah.
20	MR, FRANKOVITCH: And attorney.	20	Q. And is it correct that you've never been
21	BY MS. DOWNIE:	21	told that you had suffered from digoxin toxicity or
22	Q and attorney who indicated that your	22	elevated digoxin levels?
23	heart attacks were not likely caused by your	23	A. I have not.
24	ingestion of a particular medication?	24	Q. What insurer did you have during the
25	A. Yes.	25	time period that you were filling your prescriptions

13 (Pages 49 to 52)

	Page 53		Page 55
1	for Digitek what medical insurer?	1	A. Yes.
2	A. From I guess for the past five and a	2	Q. Okay. You testified
3	half years or five and a half years ago until I	3	A. Okay. Wait, wait.
4	quit taking it would have been Medicare.	4	Q. Okay.
5	Q. Okay.	5	A. Now I just remembered. He I took
6	A. And when I worked for the sheriff	6	digoxin all the way up to the second heart attack
7	let's see. We didn't have Humana. I'm not sure	7	Q. Okay.
8	what insurance company it was.	8	A because he cut me off of digoxin and
9	Q. Okay. But for the last five and a half	9	Plavix and a baby aspirin after the after the
10	years or so, it's been Medicare?	10	second heart attack because he said, "You don't need
11	A. Yes, ma'am.	11	it anymore. You don't have an artery to keep open
12	Q. Okay. And I think you testified earlier	12	any longer."
13	that your co-pay for a 90-day supply was \$10?	13	Q. Okay. And "he" is Dr. McMartin?
1.4	A. Yes.	14	A. McMartin,
15	Q. And I may have asked this before and I	15	Q. When he cut you off that medication,
16	apologize if I did, but was the co-pay the same when	16	
17	your prescription was changed from Digitek to	17	meaning the digoxin, the Plavix, and the baby aspirin, when exactly did he tell you to stop taking
18	digoxin?	18	those medications? Was it go ahead.
19	A. Yes.	1.9	A. When I went back to see him a week after
20		20	
l		21	I got out of the hospital.
21	supplies with digoxin?	[Q. Okay. So you had your heart attack, you
22	A. Yes.	22	were released from the hospital, and then you went
23	Q. At the time that you stopped taking	23	back to see Dr. McMartin a week later; is that
24	digoxin after your second heart attack, do you	24	correct?
25	recall how many tablets you had left in your	25	A. Yes.
	Page 54		Page 56
1	prescription at that time?	1	Q. And it was at that time he told you you
2	A. I just had it filled, probably 85.	2	no longer you needed to take the digoxin, Plavix,
3	Q. Okay. And that was the digoxin, not the	3	and baby aspirin?
4	Digitek; is that correct?	4	A. Right.
5	A. Yes.	5	Q. How long were you in the hospital when
6	Q. I wanted to make sure I'm clear on this	6	you were admitted in March of 2008 for your second
7	because now I'm confused once again.	7	heart attack?
8	I think earlier you testified that after your	8	A. Six days.
9	second heart attack, you stopped taking digoxin	9	Q. And during the time that you were
10	entirely?	10	admitted in the hospital, do you know whether or not
11	A. Yes, yes.	11	you were given any digoxin or Digitek?
12	Q. Okay. Your second heart attack was in	12	A. I'll say no because I'm not sure.
13	March of 2008?	13	Q. Okay. If you don't recall, that's fine.
14	A. Yes.	14	A. Right.
15	Q. So is your testimony that you stopped	1.5	Q. And then when you were released from the
.1	taking digoxin entirely in March of 2008 after your	16	hospital after six days, did you, when you went
16		17	home, start taking the digoxin or Digitek again
	second heart attack?	J.,	
16			
16 17	A. After my first one. I'm sorry if I	18 19	until you went to see Dr. McMartin?
16 17 18 19	A. After my first one. I'm sorry if I confused you.	18 19	until you went to see Dr. McMartin? A. Yes.
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14 (Pages 53 to 56)

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9 March of 2008, in relation to that, do you recall 10 when it was that you received the letter from Kroger 11 pharmacy? 12 A. It wasn't too long. I don't know. I 13 was still taking it. I'm not sure. 14 MS. DOWNIE: Mr. Simon, if you want to 15 go ahead with any questions, I'll look through my 16 notes and see where I need to follow up. 17 18 EXAMINATION 19 19 10 I'm very certain. Everything has been sort of confusing. 12 Q. So earlier 13 A. And I think 14 Q. Oh, I'm sorry. Go ahead. 15 back in April not Digitek digoxin when he me on Pacerone. 16 back in April not Digitek digoxin when he me on Pacerone. 17 18 EXAMINATION 19 19 20 BY MR. SIMON: 21 Q. Mr. Lange, we were introduced a little 22 bit ago before your deposition. My name is John 23 Simon. I represent the Actavis defendants in the lawsuit you're bringing, and I have a few follow-up 29 20 Concerning Digitek primarily, or digoxin.
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18 EXAMINATION 19
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23 Simon. I represent the Actavis defendants in the 23 Q. Concerning Digitek primarily, or 24 lawsuit you're bringing, and I have a few follow-up 24 digoxin.
24 lawsuit you're bringing, and I have a few follow-up 24 digoxin.
25 questions. I apologize. Til probably de skipping 25 A. No.
Page 58 Page
1 around a little bit because I'm following Ericka's 1 Q. What did you do to prepare for today's
2 questions. 2 deposition?
3 You indicated you have a new cardiologist now. 3 A. Nothing. I had a conversation.
4 I believe his name was Dr. Stidam. 4 MR. FRANKOVITCH: With counsel, he
5 A. Stidam, Stidam. 5 referring.
6 Q. Okay, And where is he located? 6 BY MS. DOWNIE:
7 A. He's at Abraham Flexner, same location 7 Q. Okay. With Mr. Frankovitch, you had a
8 as Dr. McMartin. 8 conversation?
9 Q. Is he in the same cardiology group as 9 A. Frankovitch.
10 Dr. McMartin? 10 Q. When did the conversation occur?
11 A. Yes. 11 A. Last evening.
Q. And Dr. McMartin has now retired? 12 Q. Did you go somewhere and meet with hi
13 A. He has retired. 13 or was it by telephone?
14 Q. So it's the same address for 14 A. We just met in the lobby of the
15 Dr. McMartin and Dr. Stidam? 15 Seelbach.
16 A. Yes, sir. 16 Q. Did you review any sort of documents of
17 Q. Was it Dr. Stidam who changed your 17 anything?
18 medications to include Pacerone? 18 A. Nothing exactly. He just sort of told
19 A. Yes, yes, yeah. 19 me to say yes and no
20 Q. And how long have you been seeing 20 MR. FRANKOVITCH: You can't you
21 Dr. Stidam as opposed to Dr. McMartin? 21 discuss what we talked about.
21 Dr. Shdain as opposed to Dr. McMartin? 21 discuss what we tarked about. 22 A. Since about April '09. 22 THE WITNESS: Oh,
23 Q. Now, while you were on digoxin or 23 BY MR. SIMON:
24 Digitek, were there ever any occasions where you 24 Q. Don't tell us what you and he discussed.
25 would take two tablets instead of one tablet per 25 Just listen to my questions and only respond to the
would take two tablets instead of one tablet per 1 25 Just listen to my questions and only respond to m

15 (Pages 57 to 60)

1 question. 2 How long did the meeting last? 3 A. 30 minutes. 4 Q. Did you review the plaintiff fact sheet that we looked at earlier in your deposition? 6 A. No. 7 Q. Since the time you filled out the plaintiff fact sheet in May of 2009, did you speak with any of your doctors about Digitek? 10 A. No. 11 Q. Now, it appears as if you're uncertain when you stopped taking Digitek or digoxin from your testimony today. 12 deficiency note on his plaintiff fact sheet, and I was all the post of three drugs, and he only took me off of three drugs, and he only took me of		Page 61		Page 63
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3	1		2	MR. FRANKOVITCH: We don't have any
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6 N. No. 7 Q. Since the time you filled out the plaintiff fact sheet in May of 2009, did you speak with any of your doctors about Digitek? 9 Vith any of your doctors about Digitek? 10 A. No. 11 Q. Now, it appears as if you're uncertain when you stopped taking Digitek or digoxin from your tostimony today. 14 A. I'm certain -	1		5	· · · · · · · · · · · · · · · · · · ·
7 O. Since the time you filled out the statement In May of 2009, did you speak with any of your doctors about Digitek? 9 MR. FRANKOVITCH: Well zeriew and sign. 10	1		6	•
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with any of your doctors about Digitek? A. No. Q. Now, it appears as if you're uncertain when you stopped taking Digitek or digoxin from your testimony today. A. I'm certain — 12 Q. Okay, So can — 15 A. A. because — 16 A. A. because — 16 A. A. because — 17 Q. — you clarify for that for us? When 18 did you stop taking digoxin, first of all? 19 A. I stopped taking digoxin about April of 19 Pace ause I made the statement that Dr. McMartin 10 took me off of three drugs, and he only took me off of Plavix and aspirin. But because — he left me on 19 digoxin because I still had an a-fib problem. 24 Digitek? Digitek? A. Whenever the Kroger people traded me out 3 prescription drugs there. 24 Q. How did you do with respect to your 4 heart condition once you started taking digoxin? 4 Q. How did you do with respect to your 4 heart condition once you started taking digoxin? 4 Q. How did you do with respect to your 4 heart condition was the same while you were on Digitek 4 than it was while you were on Digitek 4 than it was while you were on Digitek 4 than it was while you were on Digitek 5 than it was while you were on Digitek 6 than it was while you were on Digitek 7 than it was while you were on Digitek 7 than it was while you were on Digitek 7 than it was while you were on Digitek 7 than it was while you were on Digitek 7 than it was while you were on Digitek 7 than it was while you were on Digitek 7 than it was while you were on Digitek 7 than it was while you were on Digitek 7 than it was while you were on Digitek 7 than it was while you were on Digitek 7 than it was while you were on Digitek 8 than it was while you were on Digitek 9 than it was while you were on Digitek 9 than it was while you were on Digitek 9 than it was while you were on Digitek 9 than it was while you were on Digitek 9 than it was while you were on Digitek 9 than it was while you were on Digitek 9 than it was while you while you have 11 than 19 than	1		8	
10 A No. Q. Now, it appears as if you're uncertain 11 when you stopped taking Digitek or digoxin from your 12 testimony today. 4 A I'm certain — 15 Q. Okay, So can — 16 A. — because — 17 Q. — you clarify for that for us? When 18 did you stop taking digoxin, first of all? 19 A. I stopped taking digoxin about April of 20 '09, because I made the statement that Dr. McMartin 21 took me off of three drugs, and he only took me off 22 of Plavix and aspirin. But because — he left me on 23 digoxin because I still had an —fib problem. 24 digoxin because I still had an —fib problem. 25 Q. Do you know when you discontinued 26 Digitek? 2 A. Whenever the Kroger people traded me out 3 prescription drugs there. Q. Do you know when you discontinued 2 Page 62 1 Digitek? 2 A. Whenever the Kroger people traded me out 3 prescription drugs there. Q. So is it fair to say that your heart 2 condition once you started taking digoxin? 4 A. I would think so, yes. 10 A. I would think so, yes. 11 Q. Have you been involved in any other 12 lawsuits besides this one? 12 lawsuits besides this one? 13 A. None. 14 Q. You live in Louisville. 15 Where does Mr. Lange, the attorncy, live? 16 A. I think he also lives here, yes. 17 MR. SIMON: Ithink that's all the 18 questions I have for you, Mr. Lange, the attorncy, live? 19 MR. FRANKOVITCH: Let's take a 20 for you. 21 MR. FRANKOVITCH: Cone of the items that 22 judicated was his retirement authorization. If 23 you want that, he can execute one. 24 Page 64 25 MS. DOWNIE: One of the deficiency 25 monitic in detail enough to know that we covered 26 everything that we needed to cover. I suspect we 27 would make the commitment to you to go 28 back and look at that deficiency notice and get 29 would make the commitment to you to go 29 back and look at that deficiency notice and get 29 would make the commitment to you to go 20 back and look at that deficiency notice and get 22 would make the commitment to you to go 23 back and look at that deficiency notice and get 24 my and aspirin. But because — he left m	1		9	
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when you stopped taking Digitek or digoxin from your testimony today. A. I'm certain — 14 A. Fin certain — 15 Q. Okay. So can — 15 A. — because — 16 A. — because — 16 A. — stopped taking digoxin, first of all? 17 A. I stopped taking digoxin, about April of 19 A. I stopped taking digoxin about April of 19 20 of Plavix and aspirin. He said, "You no longer need 23 Plavix and aspirin." But because — he left me on digoxin because I still had an a fib problem. 25 Q. Do you know when you discomtinued 25 Page 62 Digitek? A. Whenever the Kroger people traded me out a prescription drugs there. Q. How did you do with respect to your heart condition one cy ou started taking digoxin? A. I saw no difference than in the past. Q. A. I sway that your heart condition was the same while you were on Digitek than it was while you were on digoxin? A. I would think so, yes. Q. How down that same while you were on digoxin? A. I would think so, yes. Q. Have you been involved in any other 12 lawsuits besides this one? A. None. 13 A. None. 13 A. None. 19 MR. FRANKOVITCH: Unit when the was filing in his individual claim. And then the other deficiencies were laborating on his prior health conditions. 18 MS. DOWNIE: That I can't say for sure because honestly l haven't eviewed the deficiency notice in detail enough to know that we covered everything that we needed to cover. I suspect we have. So well make the context twe everything that we needed to cover. I suspect we have. So well make the context twe everything that we needed to cover. I suspect we have. So well make the context twe everything that we needed to cover. I suspect we everything that we needed to cover. I suspect we have. So well make the context twe everything that we needed to cover. I suspect we shave. So well make the context twe everything that we needed to cover. I suspect we shave. So well make the context twe everything that we needed to cover. I suspect twe everything that we needed to cover. I suspect we well make the context deficiency motice and t	1		11	deficiency notice on his plaintiff fact sheet, and I
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16 (Pages 61 to 64)

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Page 65
                                                                                                          Page 67
                                                                 STATE OF KENTUCKY
                                                             1
              MR. FRANKOVITCH: Yeah.
 1
                                                                            )SS: ERRATA
 2
              MS. CARTER: Page 20.
                                                             2
                                                                 COUNTY OF JEFFERSON )
 3
              MS. DOWNIE: Okay.
                                                             3
              MS. CARTER: Employee name,
 4
                                                                    I HAVE READ THE FOREGOING PAGES, AND THE
                                                             4
 5
       (inaudible) --
                                                             5
                                                                 STATEMENTS CONTAINED THEREIN (SUBJECT TO
              (INQUIRY BY THE COURT REPORTER.)
 6
                                                                 CORRECTIONS, ADDITIONS, AND DELETIONS CONTAINED IN
                                                             6
 7
              MR. FRANKOVITCH: I mean, he's willing
                                                             7
                                                                 THE ADDENDUM ANNEXED HERETO, IF ANY), AND THEY ARE
 8
       to execute it, and if you need it --
                                                             8
                                                                 TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.
              MS, DOWNIE: That's great.
 9
                                                             9
              MR. SIMON: That would be fine.
10
                                                            10
11
              MS. DOWNIE: That solves it, that issue
                                                            11
12
       at least.
                                                            12
              MR. FRANKOVITCH: But I'm going to
13
                                                            13
                                                                             WILLIAM E. LANGE
14
       assume that I'm not under the gun on responding to
                                                            14
       the deficiencies until I hear back from you people.
15
                                                                    SUBSCRIBED AND SWORN BEFORE ME THIS DAY BY
                                                            15
16
              MS. DOWNIE: We will get back to you
                                                                                DAY OF
                                                                        , THIS
                                                                                            2009
                                                            16
17
       within --
                                                                 MY COMMISSION EXPIRES:
                                                            17
18
              MR. SIMON: That's fine.
                                                            1.8
             MS. DOWNIE: Yeah -- in the next few
19
                                                            19
       days and let you know.
20
                                                            20
                                                                            NOTARY PUBLIC
              MR. FRANKOVITCH: Just sign here and
21
                                                            21
       date it. What is the date, the 6th, 7th?
22
                                                            22
23
              MS, CARTER: 6th.
                                                            23
24
              MR. ARNOLD: 6th.
             MR. FRANKOVITCH: Okay.
                                                            25
25
                                                                                                          Page 68
                                               Page 66
                                                             1
                                                                 COMMONWEALTH OF KENTUCKY)
             MS. DOWNIE: Thank you, I'll give it to
 1
 2
      you.
                                                                 COUNTY OF JEFFERSON )
 3
             MR, SIMON: You want me to take it?
                                                                  I, LISA M. MIGLIORE, CCR-KY, A NOTARY PUBLIC,
 4
      I'll get it in the stream of things.
                                                                 WITHIN AND FOR THE STATE AT LARGE, DO HEREBY CERTIFY
 5
             (DEPOSITION CONCLUDED AT 10:20 A.M.)
                                                                 THAT THE FOREGOING DEPOSITION OF
                                                             5
 6
                                                                         WILLIAM E. LANGE
                                                             6
 7
                                                                 WAS TAKEN BEFORE ME AT THE TIME AND PLACE AND FOR
                                                             7
 8
                                                                 THE PURPOSE IN THE CAPTION STATED; THAT THE WITNESS
                                                             8
 9
                                                                 WAS FIRST DULY SWORN TO TELL THE TRUTH, THE WHOLE
                                                             9
10
                                                                 TRUTH, AND NOTHING BUT THE TRUTH: THAT THE
                                                            10
11
                                                                 DEPOSITION WAS TAKEN BEFORE ME STENOGRAPHICALLY AND
                                                            11
                                                            12
                                                                 AFTERWARDS TRANSCRIBED UNDER MY DIRECTION; THAT THE
12
                                                            13
                                                                 FOREGOING IS A FULL, TRUE, AND CORRECT TRANSCRIPT OF
13
                                                            14
                                                                 THE SAID DEPOSITION SO GIVEN; THAT THERE WAS A
14
                                                            15
                                                                 REQUEST THAT THE WITNESS READ AND SIGN THE
15
                                                                 DEPOSITION; THAT THE APPEARANCES WERE AS STATED IN
                                                            16
16
                                                                 THE CAPTION
                                                            17
17
                                                                  LEURTHER CERTIFY THAT LAM NEITHER OF COUNSEL.
                                                            18
18
                                                                 NOR OF KIN TO ANY OF THE PARTIES TO THIS ACTION, AND
                                                            1.9
19
                                                            20
                                                                 AM IN NO WAY INTERESTED IN THE OUTCOME OF SAID
20
                                                            21
21
                                                                  WITNESS MY SIGNATURE THIS 11TH DAY OF OCTOBER,
                                                            22
22
                                                            23
                                                                 2009. MY COMMISSION EXPIRES NOVEMBER 10, 2009.
23
                                                            24
24
                                                            25
                                                                          NOTARY PUBLIC
                                                                          STATE AT LARGE, KENTUCKY
25
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7 (Pages 65 to 68)